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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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OFFICE OF RESEARCH

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WEEK IN REVIEW

HOUSE

The House approved two measures which impact the General Assembly's taxation authority. The House amended and gave the necessary two-thirds affirmative vote to Joint Resolution H.3143 which proposes amending the South Carolina Constitution so that a general tax may not be imposed or increased by the General Assembly without the approval of at least two-thirds of the membership of the House of Representatives and at least two-thirds of the membership of the Senate. The House also passed H.3144 which effects the supermajority requirements on general tax increases through statutory revision rather than constitutional amendment.

The House amended Senate amendments to H.3002, the reapportionment plan affecting twenty-two House and seven Senate districts, so as to restore the schedule for special elections contained in the House-approved version of the bill. The bill was returned to the Senate with the amendment.

The House gave third reading to several other measures. H.3039, as amended, prohibits arrangements commonly referred to as "gag clauses" in contracts between insurance companies and health care providers. The bill prohibits insurers from limiting a health care provider's ability to discuss with his patients treatment options, recommendations, and the risks associated with various courses of treatment. H.3254 allows territory owned by a municipality to be removed from within the corporate limits of the municipality by ordinance of the municipal governing body. Territory owned by a county or jointly owned by the municipality and county may also be removed from corporate limits in this fashion upon receipt of a resolution from the county governing body requesting removal. H.3158 creates a Privatization Policy Board to study and make recommendations regarding which state agency services might be more efficiently delivered by another state agency or through contract with the private sector. H.3169 conforms the Real Estate Commission to the uniform administrative framework for professional and occupational licensing boards established in 1996. The bill makes various other revisions, such as expanding duties for "brokers-in-charge" and establishing minimum requirements for initial licensure as a real estate salesman. H.3257 eliminates the Insurance Department Director's *ex officio* chairman status on the board of directors of the Medical Malpractice Liability Joint Underwriting Association and the board of governors for the Patients' Compensation Fund. The bill also eliminates the provision that actions of the Medical Malpractice J.U.A. may be appealed to the Department of Insurance. H.3243 authorizes the Department of Health and Environmental Control to develop permits for the regulation of mining limited to excavations for topsoil or sand/clay fill material which do not require further processing. H.3153 makes the technical substitution of the term "life-sustaining" for "death-prolonging" to bring a passage of the code into conformity. H.3176 impacts University of South Carolina athletics facilities revenue bonds by defining "net athletic revenues," removing the twenty million dollar debt limit for these bonds, and allowing their use

for refunding any previous authorized bonds

SENATE

On February 5 the Senate gave second reading, with notice of general amendments on third reading, to S.254. This bill, sponsored by the Senate Banking and Insurance Committee, provides major changes in auto insurance laws for risky drivers by setting up a system (similar to the system in Virginia) which creates an uninsured motorist fund in place of the Reinsurance Facility.

The Legislative Audit Council has recently released an audit of South Carolina's insurance system which recommends many of the changes proposed in S.254. All amendments on the bill were carried over to third reading and the bill will not be taken up for consideration prior to Wednesday, February 12.

COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

The full committee recommitted to the Wildlife Subcommittee H.3142, relating to the size of certain hooks which may be used while fishing on the Edisto River. The committee sent two bills to the House floor: H.3160, which is designed to provide a way for the Department of Natural Resources to release confiscated property to innocent owners of the property, and H.3243, which allows the Department of Health and Environmental Control (DHEC) to develop and implement general permits for the regulation of mining limited to excavations for topsoil or sand/clay fill material which do not require further processing. The bill as amended by the committee allows an applicant for a general permit who will mine on two acres or less to begin mining when the department receives a permit application. The amendment also states that a cease and desist order and civil penalties may be issued against an operator who is mining on more than two acres before his receipt of written approval from DHEC, and against an operator who fails to comply with the permit's requirements.

The Wildlife Subcommittee amended and gave a favorable recommendation to H.3155, which makes it illegal, unless allowed by law, to buy, sell, trade or barter any protected wild mammal or bird or parts of such mammals or birds. The subcommittee also amended and approved H.3180, which imposes catch and possession limits on shrimp and revises the penalties for exceeding those limits. Under the provisions of the bill, a person may not have in his possession more than 48 quarts of whole shrimp or 29 quarts of headed shrimp while upon the waters from May 1 through December 15. From December 16 through April 30, a person may not have in his possession more than a total of 12 dozen live or dead shrimp while on the waters of this State. These limits do not apply to lawfully acting licensed trawlers and licensed seafood dealers. While upon the waters of this State from December 16 through April 30, licensed charter fishing vessels may not have more than a total of 25 dozen live or dead shrimp.

JOINT BOND REVIEW COMMITTEE

The Joint Bond Review Committee met on February 4 and re-elected Rep. Marion Carnell as chairman and Sen. Hugh Leatherman as vice-chairman. The ten member committee, which is responsible for overseeing state agency capital projects, approved a revised "draw" schedule for state agency projects. Between July and December of 1996, state agencies drew down \$17.4 million of the funds made available to them for various construction and renovation projects throughout the state. The committee also received a report from the Capital Improvements Unit of the State Budget and Control Board regarding requests for budget changes for 24 ongoing or proposed capital projects.

The 1997 Bond Bill was introduced last week (H.3312) by the House members serving on the Joint Bond Review Committee. The authorization totals \$250,660,401 and includes projects for state colleges, universities, and correctional agencies. The bill was referred to the Ways and Means Committee.

EDUCATION AND PUBLIC WORKS

The full Education and Public Works Committee met and received information on the Administrative Procedures Act (concerning the regulatory process in South Carolina), approved nine regulations from the SC Department of Education, and considered two bills - H.3044 and H.3145.

The committee adjourned debate on H.3044, which provides that persons newly acquiring vehicles and owners of foreign vehicles being moved into South Carolina and required to be registered must, before obtaining a motor vehicle registration and license plate, display a placard on the motor vehicle containing certain information. Failure to display the information or display of false information will result in a fine. The committee also adjourned debate on H.3145. This bill prohibits the teaching of Ebonics in public elementary and secondary schools of South Carolina, and in the state-supported institutions of higher learning.

The Education Public Works and Transit Safety subcommittee reported favorably on H.3161, which provides that a person must hold a beginner's permit for at least ninety days before he or she may be issued a driver's license or a restricted driver's license. The subcommittee withheld action on H.3007 and H.3194. These bills both raise the minimum age to obtain a driver's license from sixteen to seventeen, and raise the minimum age to obtain a special restricted driver's license from fifteen to sixteen. Both bills also provide specific conditions and restrictions under which a beginner's permit is valid, including raising the minimum age for the required accompanying driver from eighteen to twenty-one years. Both bills further provide that the holder of a beginner's permit who has successfully completed a driver's training course (as set forth in both bills) may drive without an adult present if the certificate of completion from the driver training school is maintained in the driver's possession. The subcommittee adjourned debate to consider creating a more comprehensive bill which would combine the provisions in both these bills with certain other provisions.

The Education Higher Ed subcommittee met and reported favorably with amendment on H.3226 and adjourned debate on H.3075 and H.3223. H.3226 provides that if a disturbance or criminal conduct occurring on school property (or at a school-sanctioned or sponsored activity) results in a student being charged with a criminal offense involving injury to another person, that student must be immediately suspended and expulsion proceedings instituted for the remainder of the school year. The subcommittee amended the bill to provide that expulsion proceedings against such students must be immediately instituted "under the procedures provided by Article 3, Chapter 63...and the student suspended or expelled for the duration authorized by Article 3, Chapter 63...if a determination is made that the suspension or expulsion is warranted."

The subcommittee adjourned debate on H.3075, which provides that students with an overall "C" average or better in all academic courses they have taken which count towards high school graduation are eligible to participate in high school teacher cadet programs if they meet all other requirements of the program. The subcommittee also adjourned debate on H.3223, which provides that any person domiciled in South Carolina for less than twelve months and who is permanently and totally disabled qualifies for in-state tuition and fee rates at state-supported colleges and universities.

JUDICIARY

The Judiciary Committee amended and gave a favorable report to H.3157, a joint resolution which proposes amending the South Carolina Constitution so as to impose a maximum limit of six consecutive terms of service for members of the House of Representatives, three consecutive terms for members of the Senate, and three consecutive terms for constitutional officers. For members of the General Assembly, limitations would begin with terms served after the 1996 general election; for constitutional officers limitations would begin with the 1998 election. The committee amended and gave a favorable report to H.3089 which increases the maximum penalty for violating the mandatory seatbelt law from ten dollars to twenty-five dollars, and from twenty dollars to fifty dollars for any one incident involving one or more violations. The bill also removes the restriction which prevents an officer from stopping a driver solely for failure to use seatbelts. An amendment provides that failure to wear a seatbelt is not admissible as evidence in a civil action. The committee gave a favorable report to H.3230 which increases penalties for inappropriate solicitation on behalf of a charity and/or failure to comply with reporting requirements, such that a first violation incurs a fine of not less than one thousand dollars and/or a prison term of six months to one year. The maximum prison term which may be incurred by a subsequent conviction is raised from one year to three years. The committee reported favorably on H.3215, with amendments, which expands jurisdictions for local police forces when in pursuit of a fleeing offender. As amended, municipal officers may pursue anywhere in the surrounding county and county officers may pursue into adjoining counties. Officers' liability coverage is extended to cover these pursuit situations. Also receiving a report of favorable with amendments was H.3086 which provides that an individual or an individual's estate may not receive court awards for damages or injuries sustained while committing a felony. The committee also reported favorably on H.3153, which was passed by the full House.

The Constitutional Laws Subcommittee amended and reported favorably on H.3233 which requires the Constitutional Ballot Commission or its designee to prepare explanations of all state and local referendum questions in addition to all proposed state constitutional amendments. Such explanations must be supplied to voters at polling places. An amendment requires explanations to detail any potential fiscal impact which the proposed initiatives would have. The subcommittee also amended and reported favorably on H.3235 which requires any retired justice or judge appointed by the Chief Justice to serve in the state's courts to have been found qualified by the Judicial Merit Selection Commission within four, rather than two, years. The bill also reroutes the appointment process for masters-in-equity, such that candidates for vacancies submit applications directly to the Judicial Merit Selection

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Commission which supplies its list of qualified candidates to the appropriate county legislative delegation. The delegation suggests qualified candidates to the Governor until one meets with his approval and receives his appointment. The subcommittee reported favorably on two bills to ratify amendments to the South Carolina Constitution approved by voters at November's general election. H.3281 ratifies the amendment which provides that an individual convicted of a felony is ineligible to serve in a popularly elected office at the state or local level until fifteen years after his sentence is completely served. H.3282 ratifies the amendment which provides that a voter who has moved his place of residence during the thirty days prior to an election may vote in his previous precinct of residence.

The Criminal Laws Subcommittee gave reports of favorable with amendments to two bills. H.3240, The School Safety Act of 1997, creates the misdemeanor "assault and battery on school personnel" to apply to any individual who commits an unaggravated assault or battery against school personnel while on school property or at a school-sponsored event. The offense is punishable with up to twelve months imprisonment and/or a fine of up to one thousand dollars. If a student is convicted or adjudicated delinquent of the offense, it must be noted in his permanent record, and his principal and teachers must be notified. H.3184, as amended, increases maximum fines for offenses involving the desecration of human remains or graves and requires up to five hundred hours of community service where the offense is a misdemeanor.

The General Laws Subcommittee amended and gave a favorable report to H.3101 which makes it unlawful to transport a child under the age of sixteen out of state in order to circumvent a custody proceeding. Violations are applied to children born out of wedlock, and harsher penalties are assigned to violations involving actual or threatened physical force. The subcommittee also amended and gave a favorable report to H.3139 which revises disposition criteria for certain children in foster care and requires the Department of Social Services to expedite permanent placement of children where parental rights have been terminated. The bill requires adoption assessments and child-specific recruitment including the use of the media and photo listings to facilitate adoptions.

The Special Laws Subcommittee gave a favorable report to H.3108 which requires at least twenty hours of pertinent education for licensure as a bail bondsman and at six hours per year of continuing education for renewal of the license.

LABOR, COMMERCE AND INDUSTRY

The Labor, Commerce and Industry Committee gave a report of favorable with amendments to H.3272 which revises the Consumer Protection Code as it pertains to a creditor's failure to obtain the borrower's preference of legal counsel and insurance agent before the closing of a mortgage loan. The bill prohibits borrowers from filing class action suits on such violations, sets a time limit on pursuing individual causes of action, and limits amounts which may be recovered in such suits.

The Business and Commerce Subcommittee gave a report of favorable with amendments to

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H.3116 which provides that employers may grant employees additional amounts of paid leave each year for the purpose of participating in school activities: up to eight hours to attend school conferences or activities during work hours; and up to twelve hours to engage in volunteer teaching activities in schools. Under the bill, employers who grant such leave are entitled to an individual or corporate income tax in any calendar year equal to ten dollars per employee per hour of paid leave taken. The subcommittee also gave a report of favorable with amendments to H.3239, the "South Carolina Mold Lien and Retention Act," which establishes a procedure which a manufacturer of molds may use to dispose of molds which remain in his possession for at least three years beyond their last use. The bill also establishes a procedure by which a mold manufacturer may place a lien on a mold when a customer has not paid for the mold or related work.

The Real Estate Subcommittee gave an unfavorable report to H.3040 which requires an individual seeking to be licensed as a contractor to submit an affidavit of his financial condition rather than a financial statement certified by a public accountant.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS COMMITTEE

The full committee approved H.3253, which allows the Adjutant General to request a member of the National Guard to go on active duty for a state mission provided the member consents and funds are available without additional state appropriations. The full committee also sent H.3119 to the House floor. This bill ensures that all public officers and employees receive the same number of hours of paid leave for service in reserve units, regardless of the length of their regularly scheduled work shift. The Occupational Regulation and Licensing Boards Subcommittee adjourned debate on H.3013, a bill that would exempt a cosmetologist who is at least 60 years old and who has had a cosmetology license for 15 years from taking continuing education courses.

WAYS AND MEANS

Ways and Means subcommittees continued to meet and to hear 1997-98 budget requests and reports from agencies. In addition to hearing budget requests, the Criminal Justice subcommittee heard two presentations concerning privatization of correctional facilities. The presenters were Phil Roof from National Corrections Corporation and Roscoe Wilson from Associated Marine Institutes. The Transportation/Regulatory subcommittee heard the Department of Transportation's budget request. The Revenue Policy subcommittee met and received information and recommendations from the SC Association of Auditors, Treasurers, and Tax Collectors (SCATT) on a format for uniform tax bills. The subcommittee also discussed sections of the Governor's Budget (including income tax deductions and homeowner property tax relief) and received a report from Gary Turner (Department of Revenue) on coin operated devices.

Subcommittees are expected to take action on all requests this week in order to report to the full Ways and Means Committee on Monday, February 17.

BILLS INTRODUCED

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.3351 UNLAWFUL USE OF ARTIFICIAL LIGHTS Rep. Felder

This bill adds Game Zone 3 to the list of areas where the use of artificial lights from a vehicle or water conveyance to observe or harass wildlife is unlawful.

H.3358 LEGISLATION CONCERNING ANIMALS Rep. Sharpe

This bill redefines the term "animal" to mean "all living vertebrate creatures except homo sapiens", provides that a person who ill-treats or abandons an animal may be tried in magistrate's or municipal court, and prohibits companies from confining animals in vehicles for a period of time longer than 24 hours, unless the animals have proper food and water and an opportunity to rest in the vehicle (the current restrictions relate to railroad companies only). The bill also allows a society incorporated for the purpose of preventing cruelty to animals to hold an animal pending criminal disposition of a case related to such cruelty, and provides that a person who is convicted of a violation involving animal cruelty forfeits ownership of the animal and may be ordered to pay the costs of caring for the animal.

H.3368 BOILER AND PRESSURE VESSEL SAFETY ACT Rep. Askins

This legislation creates the Board of Boiler and Pressure Vessel Rules, which is empowered to make and interpret regulations covering boilers, pressure vessels, nuclear components, and power and process piping. Eight of the nine members of the board will be appointed by the Governor, with the ninth member serving as the representative responsible for public or occupational safety. The members of the board will serve without salary.

H.3398 USE OF STATE PARK FACILITIES Rep. Bauer

Current law allows a person 65 years of age or older to use state park facilities free of charge (except campsites, overnight lodging and recreation buildings). This bill gives that privilege to persons 60 years of age or older.

EDUCATION AND PUBLIC WORKS

H.3356 MINIMUM DRIVER'S AGE, DRIVER IMPROVEMENT PROGRAM, ETC. Rep. Stille

This bill provides that the Department of Public Safety (the department) shall create a driver improvement program and an alcohol education program, both to be established for the purpose of providing driver rehabilitation. The bill provides that if an individual who holds a special restricted driver's license is convicted of one or more moving violations, the court shall require the individual to attend a driver improvement program or alcohol education program, and the department may require such attendance as a condition of reinstatement of a special restricted driver's license. The department may waive this requirement if an individual attends a

private driver improvement program or alcohol education program provided by a political subdivision of the state that is approved by the department.

The bill raises the minimum age for obtaining a beginner's permit to drive from fifteen years to fifteen years and nine months, and establishes a minimum 14 day waiting period between the time a beginner's permit is issued and the time that an individual may take the driver's license examination. The bill also raises the minimum age for the driver required to accompany the permittee from eighteen to twenty-one, and requires that the accompanying driver must have three years of driving experience (current law requires one year). The bill requires a permittee driving a motorcycle to be accompanied by a driver at least twenty-one years of age, with at least three years driving experience.

The bill requires that, if an unemancipated minor driver with a beginner's permit, special restricted license, or driver's license is driving under the currently required authorization of a cosigner, and the department receives a written request that the license of the cosigner be suspended or revoked, or if the cosigner dies, the department shall suspend the license of the minor and may not reinstate the license or permit unless and until the minor becomes an adult or another qualified adult becomes cosigner.

The bill permits an applicant for a driver's license who is less than eighteen years of age and is the holder of a special restricted driver's license to receive a driver's license if the applicant has possessed a special restricted driver's license for the twelve months preceding the application and if the applicant has not been convicted of a traffic violation during that twelve month period and has completed an approved driver education course. The bill allows the department to waive any driver's license examination contained in Title 56 of the SC Code if the applicant holds a valid driver's license under this title or holds a valid driver's license from another state, territory of the US, Puerto Rico, or Canada. The bill prohibits the department from waiving the vision requirement.

The bill changes the age requirement for receipt of a special restricted driver's license from "at least fifteen years old and less than sixteen years old" to "under eighteen years of age," and provides that the department may modify or waive certain driving restrictions if the restrictions would adversely affect the licensee's employment or the licensee's participation in athletic events and training sessions. The bill provides that regulations promulgated under this section must be administered by the Department of Education and the Department of Public Safety for their respective driver education programs.

H.3365 PHYSICAL EDUCATION REQUIRED COURSES Rep. Cotty

This bill provides that in any public high school which offers training in a military or naval ROTC program sponsored by one of the military services of the US, two years training in such a program is considered equivalent to physical education and must be accepted in lieu of such instruction. Current law allows acceptance of ROTC training in lieu of physical education, but does not specify high school or length of training, and acceptance is not mandatory.

This bill further provides that for high school students, attainment of two letters in any varsity sport, two years of successful participation in band including marching band activities, or two

years participation in other activities approved by the State Board of Education which requires physical exercise such as dance or a club activity which is not a letter sport is considered equivalent to physical education instruction and must be accepted in lieu of such instruction.

S.38 HIGHWAY PATROL TROOPERS KILLED IN LINE OF DUTY Sen. Land

This bill provides that the SC Highway Patrol shall transfer the service sidearm of an active duty trooper killed in the line of duty to the trooper's surviving spouse upon request at no charge, once the sidearm has been rendered inoperable.

S.262 SHRINER LICENSE PLATES Sen. Peeler

This bill deletes the current provision that only one special license plate may be issued to a Shriner.

H.3396 NON-PAYMENT OF PROPERTY TAXES/LICENSE PLATES & MOTOR VEHICLE REGISTRATION Rep. Stille

This bill provides that the Department of Public Safety shall issue biennial license plates and revalidation decals to motor vehicle owners rather than to the county treasurer or county tax collector, as is the current requirement.

H.3415 UNITS REQUIRED FOR A HIGH SCHOOL DIPLOMA Rep. Townsend

This bill increases the number of units required for a high school diploma from twenty to twenty-four, beginning with the ninth grade class of school year 1997-98. The bill provides that of the four extra units required, one additional unit must be earned in mathematics, in science, and in computer science. For students in a college preparatory track, one additional unit must be earned in a foreign language, and for students on a track to enter the work force, one additional vocational unit must be earned.

JUDICIARY

H.3348 PUBLIC INDECENCY AND INDECENT EXPOSURE Rep. Davenport

This bill provides that an individual who engages in specified sexual acts or appears nude in a public place is guilty of the misdemeanor of public indecency, punishable with up to one year in prison and a fine of not more than five thousand dollars. An individual is guilty of the misdemeanor of indecent exposure who knowingly engages in certain sexual acts in a nonpublic place which are viewed by persons who do not occupy or have not been invited into that nonpublic place. Indecent exposure is punishable with imprisonment for up to sixty days and a fine of not more than five hundred dollars.

H.3350 OMNIBUS HIGHWAY SAFETY ACT Rep. Wilkins

This bill states that a person under the age of 21 who is operating a motor vehicle and who has an alcohol concentration of, or in excess of, two one-hundredths of one percent must have his driver's license suspended for six months. A licensed driver under the age of 21 is considered to have given consent to chemical tests of his breath, blood, or urine for purposes of determining the presence of alcohol. A law enforcement officer who has probable cause to believe a vehicle is being driven by a person under the age of 21 who has consumed alcoholic beverages may request the person to submit to a test to determine alcohol concentration.

The bill also states that a driver who has an alcohol concentration of ten one-hundredths of one percent or above or who refuses to submit to a test must have his driver's license suspended. The order of suspension must advise the person of his right to obtain an administrative review and an administrative hearing regarding the suspension of his driver's license.

The bill also amends Section 56-5-2930 by stating that it is unlawful for a person to operate a motor vehicle within this State while his alcohol concentration is ten one-hundredths of one percent or more; while he is under the influence of alcohol or another drug, or a combination of drugs; or while he is under the combined influence of alcohol or another drug or drugs, or substances which cause impairment. A person who refuses to submit to chemical tests of his breath, blood, or urine for the purposes of determining the presence of alcohol or drugs must have his license suspended for at least 180 days (current law states that a person who refuses to submit to the tests must have his license suspended for 90 days).

H.3355 SOUTH CAROLINA GARNISHMENT ACT Rep. Stille

This bill allows a plaintiff who has obtained a judgement against a defendant to place a writ of garnishment on the defendant's income, wages, interest, capital gains, dividends, bonuses, and commissions to satisfy the defendant's debt. The debtor's employer is reimbursed for the administrative costs of garnishing his employee's wages in accordance with the writ.

H.3357 AUTOMOBILE INSURANCE Rep. Hodges

This bill provides for comprehensive automobile insurance reform

H.3366 EMERGENCY CUSTODY FOR LAW OFFICERS Rep. Hodges

The bill provides civil and criminal immunity for law officers who take a child into emergency physical custody or emergency protective custody.

H.3367 UNEXCUSED ABSENCES ON BOARDS AND COMMISSIONS Rep. Davenport

This bill removes from his position any appointed member of a county or multicounty authority, board, council, commission, committee, or district who has three unexcused absences. *Ex officio* members are exempted.

H.3369 UNDERAGE ALCOHOL PURCHASE BY UNDERCOVER AGENTS Rep. Easterday

This bill provides that an individual under the age of twenty-one who purchases or possesses alcohol as an undercover agent for state or local law enforcement must not be charged with the violation.

H.3379 UNIFORM TRANSFER ON DEATH SECURITY REGISTRATION ACT Rep. Haskins

This bill allows the owner of a security to designate a beneficiary who is to take ownership of the security upon the owner's death.

H.3382 ANTIQUE SLOT MACHINES Rep. Robinson

This bill exempts from the prohibition against possession of slot machines antique slot machines manufactured before January 1, 1965 and kept by the owner in his residence for non-gaming and noncommercial purposes.

H.3383 ATTORNEY FEES IN ADMINISTRATIVE PROCEEDINGS Rep. Robinson

This bill allows reasonable attorney fees to be recovered in a contested administrative proceeding where the state or political subdivision is not the prevailing party.

H.3385 TERM LIMITS FOR STATE LEGISLATORS Rep. McLeod

This Joint Resolution proposes a constitutional amendment to limit the terms of members of the South Carolina House of Representatives to no more than six consecutive complete terms and to limit the terms of members of the South Carolina Senate to no more than three consecutive complete terms. The limitations would begin with the terms the members first serve after 1996. The legislation also states that no constitutional officer may serve more than three consecutive terms, with the limitations beginning with the terms starting in January 1999.

H.3390 MOTOR VEHICLES/UNLICENSED DRIVERS Rep. Stille

This bill provides that a motor vehicle driven by a person who is not a licensed driver or whose license has been canceled, suspended, or revoked, or who is an uninsured driver, must be impounded thirty days (first offense), sixty days (second offense), or ninety days (third offense), and associated costs must be borne by the driver. These provisions do not apply to vehicles owned by rental car companies.

H.3391 "EXPLOITATION OF WOMEN'S AND CHILDREN'S ACT OF 1997" Rep. Haskins

This bill provides that written consent of the recipient in SC is required before any person may send specified material which contains nudity, violence, sexually-explicit conduct, or vulgar or profane language. If the recipient's consent has been obtained, disclosure of the contents on the outside of the packaged material is required. Any motion picture or other material which is rated as part of an industry-recognized rating system is exempt. A finding of obscenity is not a prerequisite for the provisions of this bill to apply, but material found to be obscene also constitutes a violation. Persons violating these provisions are guilty of a misdemeanor, punishable by a minimum fine of \$1,000 or a maximum imprisonment of one year, or both.

The bill also provides that it is unlawful for a person age 18 or over knowingly to solicit a person under age 18 through a computer for the purpose of "obscenity or sexual activity" (as defined under current law). Violation of this provision is a felony punishable by imprisonment of not less than ten years or more than thirty years. The bill also increases the maximum term of imprisonment upon conviction of second degree criminal sexual conduct from twenty years to twenty-five years, and provides that a person is guilty of this crime if the person engages in sexual battery with a victim who is less than eighteen years old and the person is at least four years older than the victim.

The bill also includes use of a computer within the meaning of current law pertaining to disseminating obscenity, and provides that such dissemination is presumed available to children and its obscenity must be judged with reference to children. Under this bill, current law prohibiting conditions on certain sales or resales or on franchising rights that obscene materials be received for resale is expanded to include computer disks or computer service. Also, this bill adds permitting a minor to engage in obscene computer generated images as a violation of current law relating to obscenity and minors, and further provides that an individual who commits first degree sexual exploitation of a minor must be imprisoned for a minimum of ten

years (current minimum is three years) and a maximum of twenty-five years (current maximum is ten years.) If the minor involved in the offense is under age twelve, a violator may be imprisoned for not less than five years or more than fifteen years. The bill also adds computer generated images of a minor engaged in sexual activity to current provisions concerning second degree sexual exploitation of a minor, and provides that if the minor involved is under age twelve, a violator must be imprisoned for not less than four years or more than ten years.

H.3395 MALICIOUS INJURY TO ANIMALS, LARCENY, JUVENILE PLACEMENT Rep. Knotts

This bill provides that a person who maliciously injures animals or other personal property is guilty of a felony, punishable by a fine and imprisonment of not more than ten years, or both, if the value of the property is one thousand dollars or more. Current law requires that the property be valued at five thousand dollars or more. The bill further provides that if the property is valued at more than \$500 but less than \$1,000, the violator is guilty of a felony and must be fined or imprisoned not more than five years, or both (current law requires that property be valued at more than \$1,000 but less than \$5,000). The bill provides that if the property is valued at \$500 or less (current law requires injury or value of property to be valued at \$1,000 or less) the violator is guilty of a misdemeanor triable in magistrate's court.

The bill provides that larceny of articles valued at \$500 or less is petit larceny (current law requires value of \$1,000 or less), and larceny of articles in excess of \$500 is grand larceny (current law requires value in excess of \$1,000). The bill also revises the penalties for grand larceny.

The bill also adds certain misdemeanors as crimes which make a child eligible for detention in a secure juvenile detention facility.

H.3397 LIMITATIONS ON REVENUE RAISING AUTHORITY Rep. Wilkins

This bill states that the governing body of a county may not impose any new tax unless the tax is specifically authorized by the General Assembly. No county's governing body may increase taxes or uniform service charge rates (excluding utilities) above the rates imposed for such purposes for the prior tax year. Rates may be increased only by the percentage increase in the consumer price index based upon the southeastern average. The bill also lists other scenarios when rates may be increased, including when a rate increase is needed to offset a prior year's deficit or in response to a natural or environmental disaster.

In general, an increase in an existing tax or uniform service charge rate or the imposition of a new tax authorized by the General Assembly would require a two-thirds vote of the county's governing body. Additionally, a majority of qualified electors may approve an increase in an existing tax or rate increase in a referendum without approval by a supermajority of the governing body. The governing body of a county is given the authority to impose a uniform service charge on accommodations provided for transients and on food and beverages consumed on the premises of an establishment. The bill imposes limitations on the amount, location, and use of the revenues from the service charges on accommodations.

The bill places similar revenue raising restrictions on the governing bodies of municipalities, on the governing bodies authorized to levy special purpose or public service district taxes, and on

the governing bodies authorized to levy school taxes. The bill also restricts municipalities, counties, and other local bodies from imposing a fee or tax on the transfer of real property unless the General Assembly has expressly authorized the imposition of the fee or tax; however, if such a fee or tax has been imposed by the local body, it may continue to be collected until the earlier of (1) the end of the entity's current fiscal year as of the effective date of the legislation or (2) January 1, 1998.

H.3399 ABSENTEE VOTING Rep. Bauer

This bill eliminates the requirement that an employer sign the written certification which an employee must show a county registrar to verify that he is obligated to be at his place of employment during polling hours, and is, therefore, qualified to vote by absentee ballot.

H.3403 SOUTH CAROLINA TRADE SECRETS ACT Rep. Cato

This bill amends the "Uniform Trade Secrets Act" by renaming the chapter the "South Carolina Trade Secrets Act", revising the definitions in the chapter, and adding certain provisions of law concerning trade secrets. Trade secrets include any information that derives independent economic value from not being generally known to or readily ascertainable by any person who can obtain economic value from its disclosure or use. The bill states that employees have a duty to maintain the secrecy of their employers' trade secrets. A person aggrieved by misappropriation or wrongful use of his trade secret may bring a civil action to recover damages and to enjoin the use or disclosure of the trade secrets. An action for misappropriation must be brought within three years after the misappropriation is discovered or should have been discovered. A person who steals or by deception obtains trade secrets may be fined not more than \$100,000 or imprisoned for not more than ten years, or both. This legislation does not apply to a misappropriation occurring before July 1, 1997.

H.3407 CRIMINAL DOMESTIC VIOLENCE Rep. Young-Brickell

This bill raises penalties for a first offense of criminal domestic violence and provides that a first time offender may be subject to both fines and imprisonment. The maximum fine is raised from five hundred to twenty-five hundred dollars and the maximum prison term is raised from thirty days to six months. A first time offender must be placed on probation for six months if he fails to complete successfully a battering spouse counseling program which was the condition for suspension of his sentence. For a second or subsequent violation, the bill allows the court to impose a fine in addition to placing the offender on probation.

H.3408 PRETRIAL INTERVENTION FEES Rep. D. Smith

This bill increases the pretrial intervention application fee from fifty dollars to one hundred dollars. Aggregate fees for pretrial intervention application and participation are raised from three hundred dollars to three hundred fifty dollars.

H.3409 NONPARTISAN ELECTION OF COUNTY OFFICERS Rep. Hodges

This bill provides a procedure by which a county may opt to elect members of its governing body and certain other county officers in a nonpartisan manner.

S.33 HOSPITALITY CABINETS Sen. Cork

This bill regulates the use of locked hospitality cabinets in rooms of hotels and inns. Such cabinets must be locked and reserved for use only by registered guests who have demonstrated proof that they are of lawful age to consume alcohol. Cabinets must contain no more than thirty individual portions of alcoholic beverages at one time. Establishments which violate the provisions are subject to a civil fine of not less than one hundred dollars.

S.45 ENTICING A STUDENT FROM ATTENDING SCHOOL Sen. Leventis

This provides that a first offense of enticing an enrolled child from attending public school must be tried in magistrate's court. Second and subsequent offenses must be tried in the court of general sessions.

S.61 DISSOLUTION OF SENTENCING STUDY COMMITTEE Sen. Holland

This bill dissolves the Committee to Study Mandatory Minimum and Alternative Sentences created by the Crime Bill (Act 83) of 1995.

S.76 VOTER QUALIFICATIONS Sen. Holland

This bill ratifies a constitutional amendment approved by the general electors in 1996 that deletes the requirement that a citizen is entitled to vote only in the precinct of his residence and that any registered elector who has moved his place of residence during the 30 days immediately prior to the date of an election is entitled to vote in his previous precinct of residence. Section 4, Article II of the State Constitution is amended to read as follows: "Every citizen of the United States and of this State of the age of eighteen and upwards who is properly registered is entitled to vote as provided by law."

S.78 FICTITIOUS CORPORATE NAMES Sen. Holland

This bill prohibits the use of an assumed or fictitious name by a domestic corporation, foreign corporation, or partnership if the name intentionally misrepresents the geographic origin or location of the business. Such activity shall constitute an unlawful trade practice.

LABOR, COMMERCE AND INDUSTRY

H.3357 AUTOMOBILE INSURANCE Rep. Hodges

This bill makes comprehensive changes in the state's automobile insurance system. The bill eliminates the requirement that insurers write coverage for all drivers and creates an uninsured motorist fund into which all individuals registering an uninsured vehicle must deposit a fee of five hundred dollars. An "assigned risk" system is established. Insurers are afforded greater pricing flexibility, such that overall average rate increases or decreases for all coverages combined of seven percent above or below the insurer's current rates may take effect without the required approval from the Department of Insurance.

H.3381 LICENSURE AND REGULATION OF ARCHITECTS Rep. Robinson

This bill rewrites the chapter of the South Carolina Code dealing with the licensure and regulation of architects to conform the chapter to the organizational and administrative framework for licensing boards established by the Department of Labor, Licensing, and

Regulation. The bill states that no person may engage in the practice of architecture without a license issued by the Board of Architecture, nor may a firm offer to engage in the practice of architecture in South Carolina without a certificate of authorization issued by the Board.

The bill also describes the powers and duties of the Board, including the authority to cancel, fine, suspend, revoke, or restrict the authorization to practice architecture in this State. The Board may conduct investigations and proceedings in carrying out its duties, and may impose a civil fine of up to \$2,000 for each violation of this chapter or a regulation promulgated under this chapter (up to a total of \$10,000). The bill also expands the grounds for disciplinary action by the Board and revises the procedure for applicants taking the Architectural Registration Examination.

H.3392 SUBCONTRACTORS AND MATERIAL SUPPLIERS Rep. Davenport

This bill states that a subcontractor or material supplier may reclaim all materials supplied to him in connection with a contract to improve real property and for which he has not been paid even if a mechanic's lien or any other lien has been filed with respect to the real property. A law enforcement officer who has been requested to help recover the materials must do so provided the subcontractor or material supplier produces satisfactory evidence that he has not been paid for the materials supplied.

H.3404 PUBLIC SERVICE UTILITIES, SERVICES, AND CARRIERS Rep. Meacham

This bill gives the Public Service Commission discretionary authority to adopt procedures that encourage electrical and public utilities providing gas services to invest in cost-effective energy conservation programs. Currently, the Commission is required to adopt such procedures. The bill also deletes the definition of "integrated resource plan" from the chapter in the South Carolina Code concerning energy supply and efficiency, and repeals Section 58-37-40, which requires electrical utilities, public utilities providing gas services, and the South Carolina Public Service Authority to prepare integrated resource plans.

H.3410 UNAUTHORIZED TRANSACTION OF INSURANCE BUSINESS Rep. Cato

This bill establishes a procedure by which the Director of the Department of Insurance may issue an emergency cease and desist order against anyone he reasonably believes has engaged in, or is about to engage in, an unauthorized transaction of insurance business. Such emergency orders may be contested in a public hearing before an administrative law judge, who may make an emergency cease and desist order permanent and impose a penalty of up to fifty thousand dollars per violation. A penalty of up to twenty-five thousand dollars per violation may be imposed on anyone transacting business in violation of a permanent cease and desist order. Ten percent of the amount collected as penalties must be retained by the Department of Insurance to be used for consumer education and assistance programs. The bill also provides that one who wilfully conducts an unauthorized transaction of insurance business is guilty of a felony rather than a misdemeanor.

H.3412 STATE HEALTH INSURANCE POOL Rep. Seithel

This bill makes alterations to the State Health Insurance Pool so as to make it an acceptable alternative mechanism under the Federal Health Insurance Portability and Accountability Act of 1996.

H.3413 ACCIDENT AND HEALTH INSURANCE Rep. Seithel

This bill revises requirements on individual and group accident and health insurance policies issued in this state so as to conform with certain guarantees of availability and renewability and certain limitations on preexisting condition exclusions as specified in the Federal Health Insurance Portability and Accountability Act of 1996.

H.3414 COMPETITIVE POWER ACT Rep. D. Smith

This bill requires the Public Service Commission to formulate and adopt a plan which will restructure the state's electric utility system to establish, by January 1, 1999, a largely deregulated, competitive marketplace in which all retail customers are able to choose their provider of electrical generation services.

S.287 STATE HEALTH INSURANCE POOL Banking and Insurance Committee

This bill makes alterations to the State Health Insurance Pool so as to make it an acceptable alternative mechanism under the Federal Health Insurance Portability and Accountability Act of 1996.

S.288 ACCIDENT AND HEALTH INSURANCE Banking and Insurance Committee

This bill revises requirements on individual and group accident and health insurance policies issued in this state so as to conform with certain guarantees of availability and renewability and certain limitations on preexisting condition exclusions as specified in the Federal Health Insurance Portability and Accountability Act of 1996.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.3389 HANDICAPPED PARKING SPACE Rep. J. Brown

This bill states that the provisions of the Code concerning handicapped parking do not apply to numbered spaces reserved for use by only one person.

WAYS AND MEANS

H.3352 REAL PROPERTY TRANSFER FEES Rep. Felder

This bill prohibits municipalities, counties, school districts, or special purpose districts from imposing real property transfer fees unless the General Assembly has authorized such fees by law. The bill also provides that any municipality, county, school district, or special purpose district which has enacted and collected such fees may continue to collect the fees until the end of the entity's current fiscal year as of the effective date of this bill, or January 1, 1998, whichever comes earlier.

H.3378 TWENTY-FIVE YEAR RETIREMENT Rep. McLeod

This bill changes the number of years of service required for state retirement from thirty to twenty-five.

H.3380 TRANSFER OF AGRICULTURAL REAL PROPERTY Rep. Rice

This bill requires that in a transaction involving the transfer of agricultural real property the transferor shall provide written notice to the transferee stating that the real property is classified as "agricultural real property" for the current property tax year, and that the property is subject to rollback tax if the new owner changes the use of the property or fails to apply to retain its agricultural classification. The notice must be signed by the transferor and the transferee. Failure to comply with the notice requirements does not affect the validity of the transaction.

H.3384 NAMING OF PUBLIC PROPERTY Rep. Robinson

This bill prohibits the naming of public property purchased or constructed with state funds or otherwise acquired or owned by the state for a living person or a person who has been deceased for less than one year.

FOOTNOTE

The Legislative Update is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (WWW.LPITR.STATE.SC.US) and click on the "Quick Find Guide." On the next screen, click on "Legislative Update." This will list all of the Legislative Updates by date. Click on the date you need.